

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	EB-00-IH-0414
)	EB-00-IH-0504
ISOTHERMAL COMMUNITY COLLEGE)	FRN: 0003771193
)	NAL Acct# 200432080008
Licensee of Noncommercial Educational Station)	Facility ID #29262
WNCW(FM), Spindale, North Carolina)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 13, 2003

Released: November 14, 2003

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Isothermal Community College (“Isothermal”), licensee of noncommercial educational Station WNCW(FM), Spindale, North Carolina, apparently violated the Commission’s rules relating to licensee-conducted contests.¹ Based on our review of the facts and circumstances in this case, we conclude that Isothermal is apparently liable for a forfeiture in the amount of Four Thousand Dollars (\$4,000.00) for violation of the licensee-conducted contest rule, 47 C.F.R. § 73.1216.

II. BACKGROUND

2. The Commission received complaints that Isothermal broadcast an on-air raffle on WNCW(FM) during the period April 2 through 8, 2002, that failed to make clear that consideration was not required to participate in the contest and otherwise refrained from airing the contest’s rules, in violation of the licensee-conducted contest rule.² One complainant further alleged that Isothermal has violated 47 C.F.R. § 73.3527(e)(9) regarding the maintenance of WNCW(FM)’s public file’s donor lists. Specifically, he claimed that, during his April 18, 2002, visit to the station, the public file’s donor list was incomplete because it included information current only through January 10, 2002.³ One complainant also alleged that Isothermal had engaged in intimidating conduct by having its employee send unsolicited and harassing e-mail traffic in reprisal for the FCC complaint, contrary to Commission policy prohibiting retaliatory conduct by licensees.⁴ Finally, two

¹ 47 C.F.R. § 73.1216.

² See *Letter from Complainant to the Chief, Investigations & Hearings Division, Enforcement Bureau*, dated April 18, 2002 (“Complaint #1”); *Letter from Complainant to the Chief, Investigations & Hearings Division, Enforcement Bureau*, dated April 8, 2002 (“Complaint #2”); *Letter from Complainant to the Chief, Investigations & Hearings Division, Enforcement Bureau*, dated April 9, 2002 (“Complaint #3”); *Letter from Complainant to the Chief, Investigations & Hearings Division, Enforcement Bureau*, dated April 23, 2002 (“Complaint #4”).

³ See *Complaint #1*.

⁴ See December 2-5, 2002, supplements to *Complaint #4*.

of the complainants alleged that the licensee violated the sponsorship identification rule, 47 C.F.R. § 73.1212, by failing to identify that the station traded underwriting acknowledgments for contest prizes.⁵ By letter dated November 8, 2002, we inquired of Isothermal about these allegations,⁶ and thereafter received its response.⁷

III. DISCUSSION

3. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.⁸ In order to impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.⁹ The Commission will then issue a forfeiture if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.¹⁰

4. *Licensee-Conducted Contests.* Several complainants alleged that Isothermal conducted a broadcast contest on WNCW(FM) during the period April 2 through 8, 2002, that violated the licensee-conducted contest rule, 47 C.F.R. § 73.1216, because the station failed to make regular broadcast announcements setting forth the contest's rules.¹¹ One complainant submitted

⁵ See *Complaints # 1 and # 3*. The complainants do not suggest, however, that the contest prizes were given by the underwriter to support any specific station program, which would require sponsorship identification, only that they were given to support the station's fundraising efforts generally, which would not implicate the rule. Accordingly, we find that this aspect of their complaints do not raise any Commission rule compliance issue.

⁶ See *Letter from the Chief, Investigations and Hearings Division, Enforcement Bureau, to Isothermal Community College*, dated November 8, 2002. ("LOI"). Because of the nature of the complaints, in the LOI, we also investigated whether the contest also constituted a lottery prohibited by Title 18 U.S.C. § 1304 and 47 C.F.R. § 73.1211.

⁷ See *Letter from Isothermal Community College to the Chief, Investigations and Hearings Division, Enforcement Bureau*, dated December 9, 2002 ("Isothermal's Response").

⁸ 47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1); see also 47 U.S.C. § 503(b)(1)(D)(forfeitures for violation of 18 U.S.C. § 1464). Section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. See, e.g., *Application for Review of Southern California Broadcasting Co.*, (MO&O), 6 FCC Rcd 4387, 4388 (1991) ("*Southern California Broadcasting Co.*"). The Commission may also assess a forfeiture for violations that are merely repeated, and not willful. See, e.g., *Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359 (2001) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator's repeated signal leakage). "Repeated" merely means that the act was committed or omitted more than once, or lasts more than one day. *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5; *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9.

⁹ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

¹⁰ See, e.g., *SBC Communications, Inc.*, 17 FCC Rcd 7589, 7591, ¶ 4 (2002)(forfeiture paid).

¹¹ *Id.*

several broadcast recordings reflecting instances where station announcers invited listeners to enter the contest.¹² The complainants argue that consideration was a contest element because WNCW(FM) affirmatively required listeners to make membership pledges or donations in order to participate.¹³

5. Isothermal admits that “there was no regular schedule for the broadcast of contest rules[,]” but implies that there was no need to do so because “the rules were very simple—anyone who called and asked to be entered was entered, whether or not the caller pledged membership.”¹⁴ Isothermal contends that the station’s complete contest rules were set forth and available to participants at WNCW(FM)’s internet website.¹⁵

6. Section 73.1216 of the Commission’s rules provides that a licensee that broadcasts or advertises information about a contest it conducts shall fully and accurately disclose the material terms of the contest, and shall conduct the contest substantially as announced or advertised.¹⁶ No contest description shall be false, misleading or deceptive with respect to any material term.¹⁷ In this case, it appears that Isothermal violated Section 73.1216 of the Commission’s rules by not broadcasting material terms of its on-air raffle during the time it was conducted in April 2002. Isothermal’s *post-facto* disclosure of the contest rules on its web site two months after the contest aired does not comply with the rule.¹⁸ The Commission’s rules clearly state that “[t]he material terms should be disclosed periodically *by announcements broadcast on the station* conducting the contest.”¹⁹ The rules state that, although disclosure by non-broadcast means (such as making rules available at the stations and on the World Wide Web) can be considered in determining whether adequate disclosure has been made, the non-broadcast disclosures must be “[i]n addition to the required broadcast announcements”²⁰ Thus, although non-broadcast disclosures

¹² See Complaint #4.

¹³ *Id.*

¹⁴ See *Isothermal’s Response* at 2.

¹⁵ *Id.* at 2, 4.

¹⁶ 47 C.F.R. § 73.1216.

¹⁷ Note 2 to the rule indicates that the time and manner of disclosure of the material terms of a contest are within the licensee’s discretion. However, the obligation to disclose the material terms arises at the time that the audience is first told how to enter or participate and continues thereafter. The material terms should be disclosed periodically by announcements broadcast on the station conducting the contest, but need not be enumerated each time an announcement promoting the contest is broadcast. Disclosure of material terms in a reasonable number of announcements is sufficient. In addition to the required broadcast announcements, disclosure of the material terms may be made in a non-broadcast manner. See 47 C.F.R. § 73.1216 n.2.

¹⁸ See *Isothermal’s Response* at 1. Isothermal represents that the rules governing its contest were placed on its website in June 2002.

¹⁹ 47 C.F.R. § 73.1216 n.2 (emphasis added).

²⁰ *Id.*

may supplement broadcast announcements, they cannot act as a substitute for broadcast announcements.²¹

7. Moreover, contrary to Isothermal's contention, the recorded evidence and program transcripts submitted by the complainants and the licensee, when viewed in their full context, do not make clear that station pledges were not required of callers who wished to participate in the contest.²² Rather, listeners might reasonably conclude that they would have to make membership pledges in order to be entered into the contest drawing. Thus, the licensee appears to have exacerbated the rule violation by failing to make clear a specific material term about participating, *i.e.*, whether a station pledge was necessary.

8. *Anti-Lottery Advertising Rule.* With respect to our query concerning the prohibition against lottery advertising set forth in 18 U.S.C. § 1304 and 47 C.F.R. § 73.1211, Isothermal further denies that the contest constituted a lottery because, it contends, the station did not require listeners to provide consideration of any type in order to participate.²³ We do not find that the licensee violated the anti-lottery advertising provisions of 18 U.S.C. § 1304²⁴ and 47 C.F.R. §

²¹ See, *e.g.*, *AK Media Group, Inc.*, 15 FCC Rcd 7541 (EB 2000).

²² See, *e.g.*, Exhibit 3 to January 6, 2003, supplement to *Complaint #4*, citing April 2 and 3, 2002, broadcasts:

Voice 1: "We have accommodations in the Mount Vernon Suite at the Morehead Inn on April 26 and 27. So, a great package that we are going to give away tonight. And, if you want to have a chance to win, all you have to do is call right now. 800-245-8870. Pledge your support—automatically you are entered, and we'll draw tonight.

Voice 2: "There is no better way, no better time than right now to call in your pledge of support at 1-800-245-9970. If you need a little reminder of what a great disc that concert for a Landmine Free World are, there are some wonderful artists o there . . . among them, one of your favorites, John Prine . . ."

Voice 1: "If anybody around here has been to the LEAF Festival, they know that sometimes, oftentimes, there are no passes left by the time you decide to go. So, if you want to have a chance at picking up a couple passes, right now is your chance to do it. If you give us a call at 1-800-245-8870, you'll be entered into the raffle; if you've already called us, you are entered into the raffle."

Voice 2: "That's right."

Voice 1: "If you've pledged online at WNCW.org, which you can still do, if you are listening online, you are entered into the raffle, and if you have mailed in your pledge, we thank you from the bottom of our heart, and you are also entered into the raffle."

See also *Isothermal's Response*, citing April 3, 2002, broadcast:

Voice 1: "So you'll draw. You have a thing tomorrow. You've got a thing the next day, a thing the next. We've got raffle items happening every single day this week. . . .

Who knows? You know, people who pledge. It basically becomes, you know, basically a finite number of people. It's people who pledge or call at (800) 245-8870. Make that pledge and be entered into those drawings. You're just basically supporting great music that you like to listen to, that you enjoy having on your radio dial. It's all there for you. You're making it possible. Make that telephone ring. (800) 245-8870."

²³ *Isothermal's Response* at 2-3.

²⁴ 18 U.S.C. § 1304 provides that whoever broadcasts by means of radio or television station for which a license

73.1211.²⁵ Even if consideration had been required to participate in the contest, we note that North Carolina state law appears generally to permit lotteries conducted by non-profit organizations such as Isothermal.²⁶ The broadcast promotion of such state-permitted lotteries is allowed under the exception for non-profit conducted lotteries listed in 47 C.F.R. § 73.1211(c)(4)(i).²⁷

9. *Station Public File.* A complainant alleged that Isothermal has violated 47 C.F.R. § 73.3527(e)(9) regarding the maintenance of WNCW(FM)'s public file's donor lists. Specifically, he claimed that during his April 18, 2002, visit to the station, the public file's donor list was incomplete because it included information current only through January 10, 2002.²⁸ In its response to our letter of investigation, Isothermal contends that "a list dated April 5, 2002, was in the public file at that time," and that the station's practice is to update the donor list section of the file on a quarterly basis.²⁹ In his reply comments to Isothermal's response, the complainant disputes the licensee's claim, and submits a copy of the public file's donor list dated January 10, 2002, which he contends was the most recent material contained in the public file's pertinent section at the time of his station visit.³⁰

10. There appears to be a genuine factual dispute as to the contents of WNCW(FM)'s public file at the time of the complainant's visit that we cannot resolve on the current record. We note, however, that if the list were accurate through January 10, instead of April 18, 2002, then Isothermal's admitted practice of revising the public file's donor list on only a quarterly basis would not represent compliance with 47 C.F.R. § 73.3527(e)(9), because the rule contemplates that the donor list be updated once a program is broadcast.³¹ Noncommercial licensees should revise

is required by any law of the United States, or whoever, operation such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined under this title or imprisoned not more than one year, or both.

²⁵ 47 C.F.R. § 73.1211 provides that, with certain exceptions, no licensee of an AM, FM, television, or Class A television station, shall broadcast any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance. Citing the Supreme Court's decision in *Greater New Orleans Broadcasting Ass'n v. United States*, 119 S. Ct. 1923 (1999), the Commission no longer enforces this prohibition against the truthful advertisement of lawful casino gambling. See *Casino Advertising Enforcement Pending Disposition of Players International Case*, Public Notice, DA 99-2034 (MMB Sept. 30, 1999).

²⁶ See North Carolina Statutes § 14-309.15.

²⁷ 47 C.F.R. § 73.1211(c)(4)(i) permits the advertisement or conduct of a lottery, gift enterprise, or similar scheme, other than a state-run lottery, that is authorized or not otherwise prohibited by the state in which it is conducted and which is conducted by a not-for-profit organization or a governmental organization.

²⁸ See *Complaint #1*.

²⁹ See *Isothermal's Response* at 3.

³⁰ See *Letter from Complainant to the Chief, Investigations & Hearings Division, Enforcement Bureau*, dated December 28, 2002 ("Complainant #1's Reply").

³¹ 47 C.F.R. § 73.3527(e)(9) provides that the public file shall contain: "Donor Lists: The lists of donors supporting specific programs. These lists shall be retained for two years from the date of the broadcast of the specific program supported." Isothermal's practice of revising the file's donor list once every three months would

their stations' donor lists on an ongoing basis, as they add new donors to their roster of program supporters. In the noncommercial service, the practice of regular donor list revision is particularly important because, in some cases, it is the only way by which the licensee's compliance with the Commission's sponsorship-identification rule, 47 C.F.R. § 73.1212, may be ascertained.³² Thus, we urge Isothermal to amend its practice to revise the station's public file donor list when new program sponsors are added.³³

11. *Reprisals Threatened Against FCC Complainants.* One of the complainants alleged that Isothermal engaged in intimidating conduct by having its employee send unsolicited and harassing e-mail traffic in reprisal for the FCC complaint, contrary to Commission policy prohibiting retaliatory conduct by licensees.³⁴ We reject this allegation. A finding of "[i]ntimidation or harassment of witnesses requires threats of reprisals or some other unnecessary and abusive conduct reasonably calculated to dissuade a witness from continuing his or her involvement in a proceeding."³⁵ In this case, the complainant cites to "annoying" e-mail sent by the Director of Administrative Services of Isothermal Community College.³⁶ The text of the complained-of e-mail messages, however, make no threat of any kind, and do not appear to have been calculated to intimidate the complainant or any other party from making complaints to the FCC. Rather, the e-mail messages appear to contain mostly benign communications concerning station events. In the absence of evidence of a calculated attempt to threaten or harass complainants, we find no merit to this aspect of the complaint.³⁷

comply with the rule only if new program sponsors were added at the conclusion of each quarter, and at no other time.

³² See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, 90 FCC 2d 895, 901 at ¶ 11, n.18 (1982) (wherein the Commission granted noncommercial licensees prospective sponsorship-identification rule waivers to excuse them from the obligation of identifying less substantial program sponsors at the time of the broadcast of multiply-sponsored programs. However, the Commission granted this relief on the condition that noncommercial licensees would identify all unmentioned sponsors through a "complete donor list . . . maintained and accessible through [the Public Broadcast Service, in the case of such station affiliation], or the individual public broadcast station itself").

³³ Having been admonished for violation of 47 C.F.R. § 73.3527 in the recent past, Isothermal should have been sensitized to the importance of maintaining a current and accurate public file. See *In re Isothermal Community College*, 16 FCC Rcd 21360 (EB 2001)(MO&O), *recon.*, 17 FCC Rcd 22666 (EB 2002) (admonishing licensee for failure to maintain an updated public file).

³⁴ See December 2-5, 2002, supplements to *Complaint #4*.

³⁵ *Kaye-Smith Enterprises*, 98 FCC 2d 675, 682 (Rev. Bd. 1984), *recon. denied*, 98 FCC 2d 670 (Rev. Bd. 1984), *review denied*, FCC 85-192, released April 19, 1985, *aff'd by judgment sub nom. Hoffart v. FCC*, 787 F.2d 675 (D.C. Cir. 1986), *citing Chronicle Broadcasting Co.*, 19 FCC 2d 240, 244 (Rev. Bd. 1969) (subsequent history omitted).

³⁶ See December 2-5, 2002, supplements to *Complaint #4*.

³⁷ Cf. *Patrick Henry*, 69 FCC 2d 1305 (1978) (where the Commission, concerned with the "chilling" effect licensee reprisals might have on potential complainants, found a substantial and material question of fact as to the licensee's motivations for threatening and bringing a civil suit against a complainant).

IV. PROPOSED FORFEITURE

12. We conclude that a monetary forfeiture should be imposed against Isothermal. Based on the evidence before us, we find that Isothermal conducted its April 2-8, 2002, on-air raffle without making regular announcements setting forth the material terms of the contest, in apparent willful and repeated violation of Section 73.1216 of the Commission's rules. The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of \$4,000 for a violation of Section 73.1216 of the rules.³⁸ Based upon our review of all the pertinent factors as required by Section 503(b)(2)(D) of the Act, we believe that a \$4,000 forfeiture is appropriate.

V. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's rules,³⁹ Isothermal Community College is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of Four Thousand Dollars (\$4,000) for willfully and repeatedly violating Section 73.1216 of the Commission's rules.

14. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's rules, that within thirty days of the release of this Notice, Isothermal Community College SHALL PAY to the United States the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

15. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above.

16. The response, if any, must be mailed to Maureen F. Del Duca, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W, Room 3-B443, Washington DC 20554 and MUST INCLUDE the file number listed above.

17. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If Isothermal qualifies as a small entity and if it wishes to be treated as a small entity for tracking purposes, it should so certify to us within thirty (30) days of this *NAL*, either in its response to the *NAL* or in a separate filing to be sent to the Enforcement Bureau. Isothermal's certification should indicate whether it, including Isothermals' parent entity and its subsidiaries, if any, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities ("OCBO") set forth in Attachment A of this *NAL*. This information will be used for tracking purposes only. Isothermal's response or failure to respond to this question will have no effect on its rights and responsibilities pursuant to Section 503(b) of the Communications Act. If

³⁸ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, 12 FCC Rcd 17087, 17114 (1997), *recon. denied* 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b).

³⁹ 47 C.F.R. §§ 0.111, 0.311 and 1.80.

Isothermal has questions regarding any of the information contained in Attachment A, it should contact OCBO at (202) 418-0990.

18. IT IS ALSO ORDERED, that the complaints filed in this matter ARE GRANTED to the extent indicated herein, and ARE OTHERWISE DENIED, and the complaint proceeding IS HEREBY TERMINATED.⁴⁰

19. IT IS FURTHER ORDERED that a copy of this Notice shall be sent, by Certified Mail/Return Receipt Requested, to the licensee, Isothermal Community College, at P.O. Box 804, Spindale, North Carolina 28160, and to its counsel, Steven Schaffer, Esq., Schwartz, Woods & Miller, at 1350 Connecticut Avenue, NW, Suite 300, Washington, DC 20036-1717.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁴⁰ For purposes of the forfeiture proceeding initiated by this *NAL*, Isothermal Community College shall be the only party to the proceeding.

ATTACHMENT A

FCC List of Small Entities

As described below, a “small entity” may be a small organization, a small governmental jurisdiction, or a small business.

(1) Small Organization	
Any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.	
(2) Small Governmental Jurisdiction	
Governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.	
(3) Small Business	
Any business concern that is independently owned and operated and is not dominant in its field, <i>and</i> meets the pertinent size criterion described below.	
Industry Type	Description of Small Business Size Standards
<i>Cable Services or Systems</i>	
Cable Systems	Special Size Standard – Small Cable Company has 400,000 Subscribers Nationwide or Fewer
Cable and Other Program Distribution	\$12.5 Million in Annual Receipts or Less
Open Video Systems	
<i>Common Carrier Services and Related Entities</i>	
Wireline Carriers and Service providers	1,500 Employees or Fewer
Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers	

Note: With the exception of Cable Systems, all size standards are expressed in either millions of dollars or number of employees and are generally the average annual receipts or the average employment of a firm. Directions for calculating average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

<i>International Services</i>	
International Broadcast Stations	
International Public Fixed Radio (Public and	

Control Stations)	\$12.5 Million in Annual Receipts or Less
Fixed Satellite Transmit/Receive Earth Stations	
Fixed Satellite Very Small Aperture Terminal Systems	
Mobile Satellite Earth Stations	
Radio Determination Satellite Earth Stations	
Geostationary Space Stations	
Non-Geostationary Space Stations	
Direct Broadcast Satellites	
Home Satellite Dish Service	
Mass Media Services	
Television Services	\$12 Million in Annual Receipts or Less
Low Power Television Services and Television Translator Stations	
TV Auxiliary, Special Broadcast and Other Program Distribution Services	
Radio Services	\$6 Million in Annual Receipts or Less
Radio Auxiliary, Special Broadcast and Other Program Distribution Services	
Multipoint Distribution Service	
	Auction Special Size Standard – Small Business is less than \$40M in annual gross revenues for three preceding years
Wireless and Commercial Mobile Services	
Cellular Licensees	1,500 Employees or Fewer
220 MHz Radio Service – Phase I Licensees	
220 MHz Radio Service – Phase II Licensees	
700 MHZ Guard Band Licensees	
Private and Common Carrier Paging	Auction special size standard - Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and controlling principals) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and controlling principals)
Broadband Personal Communications Services (Blocks A, B, D, and E)	1,500 Employees or Fewer
Broadband Personal Communications Services (Block C)	Auction special size standard - Small Business is \$40M or less in annual gross revenues for three previous calendar years Very Small Business is average gross revenues of \$15M or less for the preceding three calendar years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Broadband Personal Communications Services (Block F)	
Narrowband Personal Communications Services	
Rural Radiotelephone Service	1,500 Employees or Fewer
Air-Ground Radiotelephone Service	
800 MHz Specialized Mobile Radio	Auction special size standard - Small Business is \$15M or less average annual gross revenues for three preceding calendar years
900 MHz Specialized Mobile Radio	
Private Land Mobile Radio	1,500 Employees or Fewer
Amateur Radio Service	N/A
Aviation and Marine Radio Service	1,500 Employees or Fewer
Fixed Microwave Services	
Public Safety Radio Services	Small Business is 1,500 employees or less Small Government Entities has population of less than 50,000 persons
Wireless Telephony and Paging and Messaging	

	1,500 Employees or Fewer
Personal Radio Services	N/A
Offshore Radiotelephone Service	1,500 Employees or Fewer
Wireless Communications Services	Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
39 GHz Service	
Multipoint Distribution Service	Auction special size standard (1996) – Small Business is \$40M or less average annual gross revenues for three preceding calendar years Prior to Auction – Small Business has annual revenue of \$12.5M or less
Multichannel Multipoint Distribution Service	\$12.5 Million in Annual Receipts or Less
Instructional Television Fixed Service	
Local Multipoint Distribution Service	Auction special size standard (1998) – Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
218-219 MHZ Service	First Auction special size standard (1994) – Small Business is an entity that, together with its affiliates, has no more than a \$6M net worth and, after federal income taxes (excluding carryover losses) has no more than \$2M in annual profits each year for the previous two years New Standard – Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Satellite Master Antenna Television Systems	\$12.5 Million in Annual Receipts or Less
24 GHz – Incumbent Licensees	1,500 Employees or Fewer
24 GHz – Future Licensees	Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Miscellaneous	
On-Line Information Services	\$18 Million in Annual Receipts or Less
Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers	750 Employees or Fewer
Audio and Video Equipment Manufacturers	
Telephone Apparatus Manufacturers (Except Cellular)	1,000 Employees or Fewer
Medical Implant Device Manufacturers	500 Employees or Fewer
Hospitals	\$29 Million in Annual Receipts or Less
Nursing Homes	\$11.5 Million in Annual Receipts or Less
Hotels and Motels	\$6 Million in Annual Receipts or Less
Tower Owners	(See Lessee's Type of Business)